

STATE OF MICHIGAN  
THIRD JUDICIAL CIRCUIT COURT FOR THE COUNTY OF WAYNE  
CIVIL DIVISION

PEOPLE OF THE STATE OF MICHIGAN,

-v-

Case No. 08-6961  
2007718778

JAMES ANDREW POWELL  
Defendant.

PLEA

BEFORE THE HONORABLE TIMOTHY M. KENNY, CIRCUIT JUDGE

Detroit, Michigan - Wednesday, July 30, 2008

APPEARANCES:

For the People:

ELIZABETH J. WALKER, (P32517)  
Assistant Prosecuting Attorney  
Wayne County Prosecutor's office  
1441 St. Antoine  
Detroit, Michigan 48226  
(313) 224-5804

For the Defendant:

DOUGLAS D. HAMPTON (P46378)  
Douglas D. Hampton & Associates PC  
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Southfield, Michigan 48076  
(248) 357-4000

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WITNESSES:

PAGE

None.

EXHIBITS:

IDENTIFIED

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None.

1 Detroit, Michigan

2 Wednesday, July 30, 2008

3 Approximately - 11:55 P.M.

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5 THE CLERK: This is case 08-6961, People of  
6 the State of Michigan versus James Powell. Mr. Powell  
7 is here today for a pretrial.

8 MR. HAMPTON: Good morning, Your Honor, may it  
9 please this Honorable Court Douglas Hampton on behalf of  
10 Mr. Powell.

11 MS. WALKER: Elizabeth Walker for the  
12 prosecution.

13 THE COURT: Your Honor, today is the date and  
14 time for the pretrial, the offer is made by the People.  
15 I've discussed this offer at length with my client he  
16 has indicated that he would like to accept the offer of  
17 the People.

18 Is that correct, sir?

19 MR. POWELL: Yes.

20 THE COURT: What's the offer, Ms. Walker?

21 MS. WALKER: The offer is if the Defendant  
22 pleads guilty to Second Degree Murder, two counts of  
23 Felonious Assault, Felon In Possession Of A Firearm, and  
24 Felony Firearm as well as the Habitual Offender, Second  
25 Offense. We will dismiss the First Degree Premeditated

1 Murder and we will dismiss the First Degree Felony Murder  
2 which is Count One and Count Two in this case.

3 In addition, the Defendant agrees to serve a  
4 sentence of 25 to 40 years on the murder two, plus two  
5 years for Felony Firearm and whatever the Court chooses  
6 to impose on the two Felonious Assault Counts and the  
7 Felon In Possession Count.

8 THE COURT: All right, raise your right-hand,  
9 please, sir.

10 THE CLERK: Do you solemnly swear or affirm the  
11 testimony given in the matter pending before the court  
12 today will be the truth?

13 MR. POWELL: Yes.

14 THE CLERK: Put your hand down, sir.

15 (At 11:56 a.m., sworn by the clerk testified;  
16 as follows)

17 THE COURT: Tell me your full name and your  
18 age, please

19 MR. POWELL: James Powell, 28 years old.

20 THE COURT: All right. Mr. Powell you're  
21 charged with in Count One, Murder In The First Degree,  
22 Premeditated Murder. In Count Two, you're charged with  
23 Felony Murder, both of those carry with it a mandatory  
24 life without parole.

25 In Count Three and in Count Four, you're

1 charged with Felonious Assault, both of those carry  
2 up to four years in prison minimum possibility of  
3 probation.

4 Count Five, you're charged Felon In Possession  
5 Of A Firearm that carries up to five years in prison  
6 minimum possibility of probation.

7 Count Six, you're charged with Felony Firearm  
8 which carries a flat two year prison sentence to be  
9 served before any other sentence is imposed.

10 There is a Second Offender Habitual filed in  
11 this matter, which means that the maximum penalty on the  
12 Felon In Possession charge could go from five years up  
13 to seven and a half years. And on the Felonious Assault  
14 charge it could go from four years up to six years.

15 It's my understanding that the prosecutor's  
16 office will dismiss the two counts of Murder In The First  
17 Degree, that being Premeditated Murder and Felony Murder  
18 in exchange for your pleading guilty to Murder In The  
19 Second Degree, two counts of Felonious Assault, Felon  
20 In Possession Of A Firearm and Felony Firearm with the  
21 understanding and sentence agreement that you'd receive  
22 two years on the Felony Firearm charge to be followed by  
23 a sentence of 25 to 40 years on a charge of Murder In The  
24 Second Degree. Is that your understanding, sir, of the  
25 complete agreement?

1 MR. POWELL: Yes.

2 THE COURT: Has anybody promised you any other  
3 plea, any other sentence, any other arrangement, or deal  
4 other than what I've just stated here on the record?

5 MR. POWELL: No, sir.

6 THE COURT: Both sides agree I've stated the  
7 complete agreement on the record?

8 MS. WALKER: That is correct, Your Honor.

9 MR. HAMPTON: Satisfied, Your Honor.

10 THE COURT: Mr. Powell, are you currently on  
11 probation or parole at this time?

12 MR. POWELL: Yes, sir.

13 THE COURT: Which one, sir?

14 MR. POWELL: Probation.

15 THE COURT: Okay. You understand your plea  
16 here today amounts to a violation of that probation? I  
17 don't know what'll happen, but it's a violation.

18 By pleading here today you're giving up the  
19 right to have a jury trial, or a trial by the Court  
20 without a jury. You're also giving up the right to be  
21 presumed innocent unless and until the prosecutor proved  
22 you guilty beyond a reasonable doubt.

23 You're giving up the right to have any of the  
24 witnesses against appear in open court and testify  
25 against you, and you through your attorney, Mr. Hampton,

1 would have the right to question or cross-examine any of  
2 those witness against you. And likewise, if there were  
3 witnesses that you wanted to come in and have testify for  
4 you if they wouldn't come in on their own I would order  
5 them to come in by subpoena to testify on your behalf.

6 By pleading here today you're giving up the  
7 right to testify at your own trial. In other words,  
8 to tell your side of the story if you want to, but nobody  
9 can force you to do that. If you want to remain silent  
10 that's your right, and if you choose to remain silent  
11 I would tell the jury they couldn't consider that or  
12 hold that against you in anyway when it came time for  
13 them to decide the case.

14 And finally by pleading here today, you're  
15 giving up the right to have the Michigan Court of  
16 Appeals, which is a higher court, automatically review  
17 your conviction and sentence. You can still ask them to  
18 hear your case, but it will be up to them to decide  
19 whether or not they want to hear it. Do you understand  
20 that these are all of the rights that you're giving up by  
21 pleading here today?

22 MR. POWELL: Yes, sir.

23 THE COURT: Mr. Powell, do you have any question  
24 about any of these rights as I've explained them to you?

25 MR. POWELL: No.

1 THE COURT: Has anybody forced you, threatened  
2 you or pressured you in anyway in order to get you to  
3 plead?

4 MR. POWELL: No.

5 THE COURT: Back on July the 21<sup>st</sup> of last 2007  
6 were you in front of 6898 Rutland in the City of Detroit?

7 MR. POWELL: Yes.

8 THE COURT: Did you, in fact, come in contact  
9 with an individual that you knew or later knew as an  
10 individual by the name of Heyder Algonzouwle (sp)?

11 MR. POWELL: Yes.

12 THE COURT: And did you, in fact, shoot Mr.  
13 Algonzouwle (sp)?

14 MR. POWELL: Yes, sir.

15 THE COURT: And as a result of your shooting  
16 him you learned that Mr. Algonzouwle (sp) died; is that  
17 correct?

18 MR. POWELL: Yes, sir.

19 THE COURT: How many times was he shot?

20 MR. POWELL: Once.

21 THE COURT: And you certainly didn't have any  
22 legal basis to shoot him or kill him did you?

23 MR. POWELL: No, sir.

24 THE COURT: Am I correct that there were two  
25 other individuals Ali Kager Algonzouwle (sp) and a Yash



1 Kager Algonzouwie (sp) two other individuals that were  
2 there at that same location on that same date; is that  
3 true?

4 MR. POWELL: Yes, sir.

5 THE COURT: And did you point the gun that you  
6 shot Mr. Heyder Algonzouwie (sp), did you point that gun  
7 at those two individuals --

8 MR. HAMPTON: Your Honor, can I have one second?

9 THE COURT: Yeah, sure.

10 MR. HAMPTON: Your Honor, just for clarification  
11 even at the preliminary exam it was not established that  
12 the gun was actually pointed at these individuals, but  
13 the gun was used to put them in apprehension which I  
14 think still qualifies as a Felonious Assault.

15 THE COURT: All right.

16 MS. WALKER: I believe that's true.

17 THE COURT: All right. They certainly were  
18 present and near by, and certainly had reason to believe  
19 that they might also possibly be shot by you; is that  
20 correct?

21 MR. POWELL: Yes, sir.

22 THE COURT: And you certainly didn't have any  
23 legal right or justification in putting those other two  
24 men in fear of their lives either; true?

25 MR. POWELL: Yes.

1 THE COURT: Okay.

2 And at the time that you committed these acts,  
3 Mr. Powell, would I be correct in understanding that you  
4 had previously be convicted with Possession With Intent  
5 To Deliver or Delivery Of Marijuana?

6 MR. POWELL: Yes, sir.

7 THE COURT: And is there a stipulation for  
8 purposes of this plea that as of July the 21<sup>st</sup> 2007, Mr.  
9 Powell's legal right to possess or carry a firearm had  
10 not been restored under Michigan Law?

11 MS. WALKER: That is correct.

12 MR. HAMPTON: So stipulated, Your Honor.

13 THE COURT: Mr. Powell, the firearm that you  
14 used to shot and kill Mr. Heyder Algonzouwie (sp) was,  
15 in fact, a pistol; is that true as opposed to a rifle or  
16 a shotgun?

17 MR. POWELL: Yes, sir.

18 THE COURT: Okay.

19 Both sides satisfied that there's a factual  
20 basis and I've complied with the court rule?

21 MS. WALKER: People are satisfied.

22 MR. HAMPTON: Satisfied, Your Honor.

23 THE COURT: All right. I'll accept the plea at  
24 this time; sentencing scheduled for?

25 THE CLERK: August 20<sup>th</sup>.

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THE COURT: Does that work out for all sides?

MR. HAMPTON: Yes, Your Honor.

MR. WALKER: Yes.

MR. HAMPTON: Thank you, Your Honor.

THE COURT: Okay, thank you.

(At 12:04 p.m., proceeding concluded)

\* \* \*

CERTIFICATE OF COURT REPORTER

COUNTY OF WAYNE)

STATE OF MICHIGAN)

I certify that this transcript, consisting of (12) pages, inclusive, is a complete, true, and correct transcript of the proceedings and testimony taken in the matter of **People vs James A. Powell, #08-6961, Plea, on Wednesday, July 30, 2008.**

10/27/08  
Date

Athalia A. Cargile  
Athalia A. Cargile, CSMR 6836  
Certified Court Reporter